

1. This is an appeal from a preliminary hearing Order. The Board's jurisdiction to review preliminary hearing findings is limited to the following issues, which are deemed jurisdictional.¹

- (1) Did the worker sustain an accidental injury?
- (2) Did the injury arise out of and in the course of employment?
- (3) Did the worker provide both timely notice and written claim of the accidental injury?
- (4) Is there any defense that goes to the compensability of the claim?

Additionally, the Appeals Board may review any preliminary hearing order where a judge exceeds his or her jurisdiction or authority.²

2. The Judge did not exceed his jurisdiction or authority by finding that Ms. Jackson has reached maximum medical improvement from the injuries that she sustained in the May 1998 accident or by denying her request for additional benefits.

3. Ms. Jackson requests the Appeals Board to reconsider the evidence and find that she is both temporarily, totally disabled and in need of medical treatment. But because of the limits placed on its jurisdiction to review preliminary hearing findings, at this juncture of the proceeding the Appeals Board does not have the authority to reweigh the evidence and decide those facts.

4. As provided by the Workers Compensation Act, preliminary hearing findings are not final but subject to modification upon a full hearing on the claim.³

5. Because the preliminary findings that Ms. Jackson challenges are not reviewable at this time and finding that the Judge did not exceed his jurisdiction and authority, the Board concludes that it does not have the authority to review the June 7, 1999 preliminary hearing Order and that this appeal should be dismissed.

WHEREFORE, the Appeals Board dismisses the appeal leaving the Order entered by Judge Robert H. Foerschler on June 7, 1999, in full force and effect.

¹ K.S.A. 1999 Supp. 44-534a.

² K.S.A. 1999 Supp. 44-551.

³ K.S.A. 1999 Supp. 44-534a(a)(2).

IT IS SO ORDERED.

Dated this ____ day of August 1999.

BOARD MEMBER

c: Kathleen A. McNamara, Kansas City, MO
John B. Rathmel, William G. Belden, Overland Park, KS
Robert H. Foerschler, Administrative Law Judge
Philip S. Harness, Director